

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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| Re: | Patent Application for Dornelas | Date: | Aug 21, 2003 |
| Serial | 09/578,194 | Art Unit: | 1635 |
| No.: | | | |
| Filed: | 05/24/00 | Examiner | |
| For: | Modulation of Storage Organs | Action: | 2 nd part of Office action Response |

To: The Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Please amend the specification as indicated in attached.

Please amend the claims as indicated in the attached claims.

Remarks

The Examiner's claim objections have been amended in accordance with the suggested method for correction. Also note that the specification has been amended to correct the misspelling after the initial correct spelling in the first instance of "dzeta". The amendments are attached hereto.

The Examiner indicated in paragraph 5 that the incorporation by reference of the material in the journal was not appropriate and this matter was to be inserted by amendment. Presently, the specification has been amended, as has the sequence listing, to include the sequence listing mRNA that was provided in the Genbank under the Accession X94938 as listed in the journal (incorporated by reference into the patent) that referenced dzeta sequence information. Additionally, the amino acid of this sequence was also referenced as were a number of the other "species" that are not presently elected. The applicant will incorporate the other material relating to the other species and the amino acids to the extent that Examiner allows a generic claim in the case and all species are placed back into the case. The Applicant has enclosed in the information disclosure some additional information concerning this Accession X94938. Also attached to this 2nd part of the office action response is the publicly available Genbank data that has been available since prior to the filing of this application.

Applicant's Attorney's Declaration.

The applicant declares that the Seq ID No. 6 that has been added to the specification is not new matter and is the subject of Accession X94938 which is disclosed in the articles incorporated by reference.

The amendment to include Seq ID No. 6 (a sequence in Genbank a public database), which was the subject matter incorporated by reference through a journal is believed to overcome the Examiner's rejections in paragraph 6 and 8.

The Examiner has rejected the claims under 35 USC 112 because the Examiner suggests that antisense of the Dzeta gene has been enabled only for increased number of cotyledons. The applicant has amended claim one to reflect this but preserves the right to further file claims addressed to modified development. The amendment to claim one and the sub claims should clarify what is meant.

The Applicant submits that the ordinarily skilled person in the art is fully capable of using any number of well-known transformation processes without undue experimentation. Processes such as transfer via a bacterium, transfer via virus to the cell, transfer via direct uptake of the DNA construct by microinjection of the DNA construct, transfer via direct uptake of the DNA construct by particle bombardment, are and have been used for 10 or more years. Particle bombardment was first utilized in 1986 and means to transform most if not all plants with this process is well known and not requiring of undue experimentation. This was initially taught and used in the early 1980s. The ordinary skilled persons may not prefer this method, as its efficiency may be low. But it would not take undue experimentation (repetition to get good numbers but not experimentation to do the process).

The Applicant has now incorporated the sequence that was in the public domain in a well known and understood source for gene information "Genbank". These amendments should address the Examiner's reply. The applicant kindly requests that the Examiner allow the claims as amended.

Respectfully submitted,

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CERTIFICATE OF MAILING UNDER 37 C.F.R. 1.8

I hereby certify that attached is a postcard and 2nd part office action response is being deposited on August 21, 2003 first class postage and is addressed to the Commissioner of Patents, P.O. Box 1450 Alexandria, Va. 22313-1450.